



United States
Office of Personnel Management

Grade Evaluation Guide for Compliance Work

Jun 1991, TS-101 Jul TS-106

**Workforce Compensation and Performance Service
Classification Programs Division
June 1998, HRCD-5**

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COVERAGE

This guide provides criteria for evaluating the grade level of nonsupervisory work involving either on-site efforts at securing compliance of persons or organizations subject to a Federal regulatory program, or staff support efforts in regulatory compliance program development, evaluation, or administration. This guide covers positions that involve investigations to determine compliance with both the civil and criminal laws related to the regulatory program when the primary knowledges required are those of the laws and regulations enforced, the investigative techniques and methods used, and the nature and operational characteristics of the regulated entities.

The grading criteria in this guide supersede the grade level criteria of the single-agency Position Classification Standard for the Wage and Hour Compliance Series, GS-249, dated June 1973. This guide should also be used to evaluate positions involved in compliance work which is not covered by a directly applicable, specialized series standard with published grade level criteria.

EXCLUSIONS

1. Work involving planning and conducting investigations covering the character, practices, suitability, or qualifications of persons or organizations seeking, claiming, or receiving Federal benefits, permits, or employment which requires primarily knowledge of investigative techniques, such as interviewing, exploring leads, and researching records, without additionally requiring knowledge of the operations and practices of a business entity. Classify these positions by use of the grade-level criteria for the General Investigating Series, GS-1810.
2. Work involving planning and conducting investigations of alleged or suspected violations of criminal statutes which requires primarily knowledge of the laws of evidence, the rules of criminal procedure, and of investigative techniques to perform undercover work, maintain surveillance, conduct search and seizure, and make arrests. Classify these positions by use of the grade-level criteria for the Criminal Investigating Series, GS-1811.
3. Work involving compliance program functions covered by a directly applicable, specialized series standard. Examples are Safety and Occupational Health Management, GS-018; Equal Opportunity Compliance, GS-360; Industrial Hygiene, GS-690; Consumer Safety, GS-696; Nuclear Engineering, GS-840; Mine Safety and Health, GS-1822; and Motor Carrier Safety, GS-2123. Classify these positions by use of the appropriate specialized series standard.

4. Work involving inspecting and evaluating operating programs within Federal agencies for effectiveness, economy, and internal compliance with the policies, regulations, and laws governing those programs. Classify these positions by use of the series standards related to the types of operating programs evaluated, or by other appropriate standards, such as the Administrative Analysis Grade Evaluation Guide.
5. Work involving compliance program functions which require full professional knowledge in such areas as economics, statistics, or law. Classify these positions by use of the appropriate subject matter standard.

OCCUPATIONAL INFORMATION

Nature of Compliance Work

Compliance or enforcement work is a necessary part of any regulatory program. Its purpose is to reinforce laws or executive orders designed to foster and ensure fairness, safety, financial responsibility, or other desired conditions in particular areas of social or economic activity.

Compliance program philosophies range from strong emphasis on obtaining voluntary compliance to insistence on imposing significant penalties on all those found in violation of the regulations. The key elements in compliance work are identifying instances of noncompliance and trying to resolve them. Noncompliance is identified through investigations or reviews. These problems are resolved either through conciliation of complaints, negotiating appropriate settlement agreements, or by referring the case for litigation.

Regardless of how a case is resolved, success for the compliance program depends on how well those who perform the compliance work substantiate their findings. This is done by gathering and synthesizing data and facts that are both convincing and admissible as evidence in administrative hearings or Federal courts. Some cases may involve investigations of criminal violations; these are referred to the Department of Justice or other law enforcement organizations for legal action. Depending on the investigative resources available and the working relationship that exists between the compliance program and the law enforcement organization, the evidence supporting criminal cases may be fully developed by compliance program employees in close coordination with prosecutors.

Those who perform compliance work, particularly that involving on-site investigations or reviews, are subject to pressures from several directions. They are under pressure to resolve cases within deadlines set by the program's management officials or imposed by statutes of limitations. They must ensure that their findings are correct, based on sound reasoning, adequate documentation, and

correct application of the statutes, judicial decisions, and program regulations. Their work may be scrutinized for its thoroughness and propriety by interest groups and the news media. Finally, those who do this work must deal with persons who are subject to the regulatory program or with their attorneys. This requires allaying unwarranted fears, reasoning with hostile or defensive individuals, and overcoming a variety of obstacles designed to thwart an investigation or review.

Compliance work requires knowledge of the laws, executive orders, and regulations enforced, knowledge of the investigative techniques of the program, skill in interviewing and negotiation, and a practical knowledge of the activities that are subject to regulation. These knowledges are augmented by reference to a variety of written guides including legal opinions, precedent judicial and regulatory decisions, policy directives, investigation manuals or handbooks, and technical or business publications about the regulated activities.

Impact of Litigation

The preparation of a case for litigation indicates that complicating circumstances are likely to be present, but it is not itself a complicating factor. Frequently, violations where the facts and law are clear cut are resolved short of legal or quasi-legal proceedings. Cases prepared for litigation often involve circumstances which make it difficult to anticipate the many issues that may be raised at a trial or hearing and which complicate how the case is developed. These circumstances are described in Factor 4, Complexity.

Impact of Publicity

The prominence of a respondent or the sensitivity of issues involved in a compliance investigation and the attendant news media coverage may affect the complexity, scope and effect, and the nature of personal contacts. For example, sensitivity of issues in a case and significant media coverage may affect the degree to which witnesses cooperate and force the compliance specialist to alter investigative approaches and techniques. Likewise, the extent of media coverage may reflect the geographic extent of an investigation or its effects. Also, prominent respondents or sensitive issues may make it more difficult to establish personal contacts.

Impact of Team Leadership

The use of teams of two or more compliance specialists to conduct investigations or reviews is common in some compliance programs. Use of a team or designation of an employee as a leader of a group effort may indicate the scope or urgency of an investigation, along with the total time devoted to a case. The work of team leaders should be carefully examined to see whether, in addition to the larger than

usual scope of the case, there is added difficulty in deciding how to conduct the investigation. Where, for example, teams are used only to gather more evidence faster and the work of one team member does not impact on the work of others, the complexity of the team leader's personal work is not significantly increased. Where, on the other hand, a team effort also signifies the unusual variety of operations studied, the complicated interrelationships among organizations or activities, or the existence of concealed or inconclusive evidence requiring more in-depth investigation, these factors may impose planning and coordination demands that add to the complexity of the team leader's work. For example, the team leader may be required to analyze the interim findings of each team member, discern patterns of activity or unusual combinations of circumstances, and identify new issues or leads that should be explored by other team members. To be credited under the factor levels, this leadership role should be a regular rather than occasional part of the work.

Definitions

For editorial convenience, the term "compliance specialist" is used to identify employees whose work is to be evaluated by use of this guide; official titles may vary. Similarly, the term "regulated entity" is used throughout the guide to refer to businesses, organizations, or arrangements such as pension plans that are covered by a regulatory program. Other terms used are:

Complainant: A person who files a formal complaint with the Government compliance program concerning an alleged violation.

Respondent: A person or organization alleged or suspected to be in violation of provisions enforced by the regulatory compliance program.

Conciliation: The resolution of complaints without full investigation when informal agreement can be worked out between the complainant (usually an individual) and the regulated entity.

Settlement: An agreement between the Government compliance program and a respondent in which the respondent agrees to take all actions necessary to comply fully with the law and regulations, including required payment of penalties or restitution. Such agreements may involve negotiation on the specific timing, nature, and scope of the procedures used to accomplish the required actions.

SERIES AND TITLES

This guide does not affect current practice on series or title determination. Continue to classify positions evaluated by this guide in the most appropriate series published in the Office of Personnel Management's Handbook of Occupational

Groups and Series, and in keeping with the discussions of coverage in individual classification standards.

Positions identified with series for which titling instructions have been issued will be titled in accordance with those instructions. Positions in occupational series for which titles have not been specified, e.g., the General Inspection, Investigation, and Compliance Series, GS-1801, should be titled as descriptively and concisely as possible following the general titling instructions in the *Introduction to the Position Classification Standards*.

GRADING OF POSITIONS

The grade level criteria in this guide cover nonsupervisory positions at grades GS-5 through GS-13. Evaluate positions on a factor-by-factor basis using the factor level descriptions found in this guide. Only the designated point values may be used. More complete instructions for evaluating positions are contained in the instructions for the Factor Evaluation System.

This guide includes examples of work situations or assignments that illustrate the concepts contained in the factor level descriptions. Any one of these examples is not by itself representative of the factor level. Users should avoid evaluation of positions solely on the basis of comparison with the assignments described in the illustrations.

GRADE CONVERSION TABLE

Total points on all evaluation factors are converted to GS grade as follows:

GS Grade	Point Range
5	855-1100
6	1105-1350
7	1355-1600
8	1605-1850
9	1855-2100
10	2105-2350
11	2355-2750
12	2755-3150
13	3155-3600

Typical Factor Pattern For Compliance Work

The following table shows the typical factor level pattern for factors 1 through 5 in compliance specialist positions GS-5 through GS-13. The table is designed to help users understand the normal relationships among the factor levels for each of the grades, for example, the level of knowledges and skills normally required to perform work of a particular level of complexity.

GS-5	GS-7	GS-9	GS-11	GS-12	GS-13
LEVEL 1-5	LEVEL 2-2		LEVEL 2-3		LEVEL 1-8
LEVEL 2-1	LEVEL 2-2	LEVEL 2-3		LEVEL 2-4	
LEVEL 3-1	LEVEL 3-2	LEVEL 3-3		LEVEL 3-4	
LEVEL 4-2		LEVEL 4-3		LEVEL 4-4	LEVEL 4-5
LEVEL 5-1	LEVEL 5-2	LEVEL 5-3		LEVEL 5-4	

FACTOR LEVEL DESCRIPTIONS

FACTOR 1, KNOWLEDGE REQUIRED BY THE POSITION

Level 1-5 -- 750 Points

This is the basic trainee level. It requires a foundation of basic knowledge (such as may have been gained through a baccalaureate educational program or its equivalent in experience, training, or self-study), skill in fact finding, analysis, and problem solving, well-developed writing skills, and the ability to deal effectively with people.

This knowledge and ability are used to perform closely controlled developmental assignments designed to teach: the basic provisions and conventional applications of the laws and regulations enforced by the compliance organization; the basic investigative techniques employed in the compliance program and the organization of evidence into written reports of findings and conclusions; and the basic practices (record keeping, organizational structures, operation, and relationships) of businesses, public institutions, or other organizations subject to the provisions enforced by the program.

Developmental assignments typically include: answering elementary questions about the compliance program; gathering and organizing information about a

regulated entity from office records and files; reviewing specified records of a regulated entity or interviewing specified persons to gather specific facts; and developing portions of written or oral reports.

Level 1-6 -- 950 Points

In addition to knowledges and abilities described at Level 1-5, this level requires:

- Knowledge of the basic provisions of the laws and regulations enforced by the compliance organization and of key precedent case decisions and other program guidelines, and ability to apply them to factual situations and reach conclusions about matters of coverage, exemption, and compliance.
- Knowledge of basic investigative methods for reviewing records, interviewing, and analyzing information from business records and documents or from statements of witnesses, subjects, third parties, and other knowledgeable persons. Skill in using these methods is applied in gathering the facts needed to decide and document issues of compliance and appropriate restitution.
- Knowledge of the basic policies, patterns, and practices of the regulated entities as they relate to the compliance program. These include organizational structures, operations, personnel and financial practices, record keeping, and relationships with other organizations or individuals. This knowledge is used to identify significant sources and items of information needed to document issues of compliance, disclose violations, and specify terms needed to achieve compliance.
- Awareness of the basic provisions of other, related compliance programs (for example, provisions of the Internal Revenue Service (IRS) code, Federal and state banking regulations, Security and Exchange Commission (SEC) requirements, Immigration and Naturalization Service (INS) and Equal Employment Opportunity Commission (EEOC) regulations) to identify compliance issues as being outside the program's jurisdiction, and to recognize when issues should be referred to another agency.

These knowledges, skills, and abilities are used to complete investigative assignments by obtaining and analyzing data and developing findings or conclusions about one or a few compliance issues when the legal coverage and issues are clear cut either on their face or by reference to precedent cases that are directly applicable. The facts needed can be gathered from sources of information that are readily accessible, substantially complete and accurate, and directly applicable to the issue.

Illustrations:

1. Investigates alleged pay violations where the employer keeps substantially complete, accurate, and pertinent sales, payroll, and attendance records and makes them available to the compliance specialist. These records may have some minor, unintentional inaccuracies, gaps, or discrepancies. The employer is cooperative in clarifying or making necessary changes so they are sufficiently conclusive in establishing coverage and whether or not there have been violations.
2. Reviews a small local union, using procedures designed to screen for the likelihood of compliance problems. The compliance specialist notices that gasoline expenses are unusually high, suspects misuse of union funds, and carefully checks records of expenses. The specialist discovers that questionable expenses have been charged to a union credit card to which only three union officials have access. The specialist obtains transaction records from the credit card company which show that one of the three officials signed in his own name for repairs to a personal automobile and for marine gasoline. Third party interviews of gas station attendants confirm the personal purchases. The specialist, in the company of a senior specialist who serves as a witness, confronts the subject with the evidence.
3. Reviews a small, single employer benefit plan targeted for investigation to review the possible participation by the plan in prohibited or imprudent loans. The compliance specialist interviews the fiduciary (trustees, plan administrators, and investment managers) to clarify financial records, confirm that loans were made, and find out why they were made and how they were authorized. Following specific guidelines in an approved investigative plan, the specialist analyzes loan transactions to determine if they were prohibited by some of the less complex provisions of the Employee Retirement Income Security Act. For example, the review might reveal that there was no monitoring of overdue loan payments, or that loans were imprudent because of the low return on the investment or because a lack of sufficient collateral placed them at risk. The specialist prepares a report of findings for submission to the supervisor.
4. Investigates a construction worker's "whistleblower" complaint of being fired unjustly. Records clearly show that the worker did file a safety complaint with the Occupational Safety and Health Administration (OSHA), and an OSHA safety inspection was then conducted at the job site. The employee, who had a history of tardiness, was fired several days later after again arriving late for work. These facts clearly establish coverage of this case under the "whistleblower" protection section of the Occupational Safety and Health Act.

There are witnesses and they are cooperative. The compliance specialist interviews employees who overheard the employer fire the worker. These employees consistently say that the employer mentioned the safety complaint in addition to the employee's chronic tardiness. The employer does not deny that he cited the safety complaint as well as the habitual tardiness when he fired the worker. There is clear program guidance identifying this type of situation as a violation.

Level 1-7 -- 1250 Points

In addition to knowledges and skills described at Level 1-6, this level requires:

- Thorough knowledge of the laws and regulations of the compliance program, including an up-to-date knowledge of a significant body of court and administrative decisions that help define how to apply the law and regulations to case situations.
- Thorough knowledge of, and skill in selecting, adapting, and applying investigative methods and negotiating techniques to obtain or reconstruct missing or withheld information, persuade reluctant persons to provide information or access to it, and, in some programs, persuade subjects or respondents to agree to terms needed to achieve compliance and to make appropriate restitution.
- Knowledge of the policies, patterns, and practices of regulated entities as they relate to the compliance program to understand extensive and complicated organizations and operations. This knowledge is also used to recognize any discrepancies or inconsistencies between information reported or made available to the compliance agency and the true nature of the activity under review.
- Knowledge of the basic provisions of related compliance programs (for example, provisions of the IRS code, Federal and state banking regulations, SEC requirements, INS and EEOC regulations) sufficient to anticipate what kinds of records and documents will be available at an establishment under investigation or review, and to explain distinctions between the agency's enforcement program and others when dealing with subjects or respondents (for example, the difference between the definition of "employee" for Department of Labor and IRS purposes.)

These knowledges and abilities are used to conduct investigations or reviews where significant difficulties are encountered. The work requires, for example, analyzing a complex set of policies, practices, and operations involving the activities of an organization with several branches, subsidiaries or locals; drawing conclusions when more than one reasonable interpretation exists of legal or

regulatory guidance; or overcoming serious obstacles to gathering and interpreting evidence, such as instances where important records have been falsified and witnesses are intimidated.

Illustrations:

1. Investigates a large restaurant where the employer has deliberately omitted some employees in pay and attendance records. The employer has been paying these employees in cash to prevent their detection as undocumented alien workers and to hide the store's practice of not paying them overtime wages. The compliance specialist applies a working knowledge of the business to estimate the staff required to support the volume of business reflected in sales records and as judged by personal observation. In addition, the specialist obtains from current workers and former employees, information about the existence and addresses of the "hidden" workers. The specialist then constructs necessary pay records by interviewing the "hidden" employees to document back wages due.
2. Reviews a union regional organization with several populous subsidiary locals. The compliance specialist uses knowledge of union records and activities to identify questionable patterns in the regional organization's many financial transactions. The specialist identifies a pattern of periodic contributions to a political action fund maintained by the union. The specialist determines, by reviewing records of the subsidiary locals and interviewing local union members, that members identified as "contributors" had attended periodic training provided by the union and paid what they thought were training fees. These "contributors" had no knowledge or intention that the money was to go to the political action fund - a prohibited diversion of money obtained as training fees.
3. Reviews an employee benefit plan's investments in real estate to determine the prudence of the investments and whether there is a conflict of interest in the plan's holdings of property which would violate the Employee Retirement Income Security Act. The compliance specialist critically examines real estate appraisal reports, purchase and sale, title, and mortgage documents, participation agreements where the real estate is held by a limited partnership, and the asset mix of the plan's investment portfolio. The specialist determines the reasonableness of the purchase price and the terms of the mortgage loan and partnership agreement, and the safety of the investment. The specialist uses knowledge of real estate principles and the real estate and banking industries to make these judgments.
4. Investigates a medical lab worker's "whistleblower" complaint of being fired for filing a health complaint with OSHA. Months after an OSHA inspection of

the lab, the worker became ill, was absent for eleven days during a four week period, and was later fired for absenteeism. Lab officials deny that they had any motive other than the absenteeism for firing the worker, and there are no witnesses to the actual firing. A review of lab personnel records, made available only after the compliance specialist threatens to have them subpoenaed, shows that the complainant had more merit pay raises and fewer absences than other workers still employed. The evidence gathered by the specialist establishes unequal treatment linked to the health complaint.

5. Performs a study of agricultural practices related to the leasing of land and harvesting of timber in a multi-state region. The compliance specialist analyzes the major forms of leasing agreements in effect to determine if landowners and lessees meet the definition for farm labor contractors set forth in general policy and precedent legal decisions. The specialist prepares guidance for operating field offices on making these determinations and provides examples of correct interpretations in typical situations.

Level 1-8 -- 1550 Points

This level of knowledge requires mastery of the concepts, principles, and methods associated with a compliance program. This involves expert knowledge of, and skill in applying, the laws and regulations that define the program; expert knowledge of, and skill in applying, the investigative, problem-solving, and enforcement techniques of the program; and indepth, up-to-date knowledge of trends in the regulated community that develop in reaction to social or economic conditions or to pressures exerted by the compliance program itself.

These knowledges and skills are typically applied in circumstances involving at least the degree of complexity described at Factor Level 4-5. Typical assignments involve one or more of the following:

- Planning and conducting investigations or reviews that are likely to result in major precedents due to novel issues that arise, or that require the development of significant new approaches due to the sheer intricacy, extensiveness, and resistance of the entity under review.
- Negotiating resolution of unprecedented or exceptionally broad and complex problems when fundamental changes in the policies and operations of the regulated entity are required and significant financial burdens result.
- Developing enforcement strategies, model investigative or review plans, or significant investigative procedures for use by other compliance specialists to address new industry practices, implement new laws or regulations, or address areas where existing guidelines have been ineffective.

- Developing authoritative interpretations of regulations and program policies for use by other compliance specialists when accepted methods or provisions are questioned, challenged, or inadequate and important issues must be resolved.
- Assessing program effectiveness for a broad segment of the compliance organization (for example, several large states) by reviewing program plans, selected cases, and case statistics of local offices for consistency with program objectives; identifying operational problems and recommending corrective action; and screening and setting priorities on cases proposed for litigation based on likelihood of successful prosecution, benefit to the program, and resource cost.

Illustrations:

1. Plans and leads a wage and hour investigation of a major truck rental corporation with many employees located in major cities across the country. These various locations differ significantly from each other in their business relationship to the parent corporation, number of employees, kinds of work performed, and how they are organized.

The compliance specialist receives a lead from another region that the firm has a practice at one location of withholding pay to cover cash shortages, which often results in failure to pay minimum wage. Based on this lead and personal knowledge of the firm's questionable compliance history, the specialist uses delegated authority to open broad investigations that involve branches of the firm located in other regions.

The specialist's work includes reaching agreement with field office directors in other regions on the resources to be committed to separate investigations of selected locations of the targeted firm; deciding when to conclude the overall investigation and write a consolidated report of findings; and meeting with corporate headquarters officials to persuade them to agree to terms for future compliance that will affect their total operations.

2. Leads an audit of an extremely large international union with several regional offices, hundreds of local organizations, and affiliated activities such as credit unions and union-owned office buildings.

Interviews reveal a traditional union practice that allows each regional director to establish and have uncontrolled access to a large fund. The compliance specialist must determine whether these funds are union monies covered by the reporting and disclosure law enforced, and if so, the appropriate union-wide financial management controls that should govern their use.

Because the targeted union is exceptionally large, the specialist must use expert knowledge of the program's enforcement techniques to adapt standard audit steps and sampling procedures, and to devise other methods of getting information on crucial transactions missing from records or deliberately withheld. The specialist also uses knowledge of the law enforced to decide whether to recommend opening a criminal investigation, and directs the work of other specialists for several months.

3. Leads an investigation of pension plans operated by a large airline and covering tens of thousands of employees. The probe is triggered by a complaint of plan mismanagement from the president of one of the airline's several unions.

Large portions of insurance commissions amounting to several million dollars, normally rebated to the plans, have been diverted to make payments to an actuarial consultant. These diverted rebates have been concealed by omitting them from accounting records. The investigation is further complicated by serious, ongoing disputes between the airline and its unions, the airline's financial difficulties, and challenges to the compliance program's jurisdiction.

The compliance specialist uses knowledge of industry practices related to large insurance purchases to recognize unusually small rebates. Identify the diversions, and determine their amounts. Applying knowledge of actuarial services to pension plans, the specialist determines which services were for the benefits of the plans, which were for the airline, and what, if any, restitution must be made to individual plans.

4. Serves as a program evaluator and recognized technical authority on several major laws enforced by a wage and hour compliance program in a multi-state region, combining expert knowledge of the program with a thorough knowledge of the social and economic conditions, employment practices, and state and local labor laws throughout the region.

The compliance specialist reviews program plans proposed by field offices, suggests changes to ensure equal distribution of work and resources, identifies potential problems in the fulfillment of program goals, and advises on the direction of enforcement efforts. The specialist develops new guidelines and revises existing ones for conducting the regional enforcement program, interprets program policy directives and applicable procedures for regional employees and other government officials (Federal, state, and local), and proposes changes to national procedures and guidelines when appropriate. The specialist consults with the national program office when issues affect more than one region.

5. Plans and leads an on-site investigation of a multi-state health maintenance organization (HMO) with many affiliates and enrollees, to resolve

long-standing financial issues involving shrinking profit margins and negative net worth. The investigation reveals that the financial problems are driven by other issues such as an inadequate medical management and quality assurance program, inadequacies in the plan's health care delivery system, and marketing problems. Using expert knowledge of HMO operations and financial analysis, the compliance specialist reviews and provides authoritative advice on a variety of legal, operational, and financial proposals developed by plan representatives, and negotiates a corrective action plan to bring the HMO into full compliance with laws and regulations.

6. Plans and leads an import tax investigation of a major multinational manufacturing corporation which is alleged to be selling its products in the United States at less than fair value in violation of international trade agreements (antidumping statute). The specialist initiates the investigation upon petitioning by the U.S. industry which manufactures a product competing with the imported merchandise.

The compliance specialist uses knowledge of international business and economic practices, the finance system of the foreign corporation, and the disputed products and their manufacturing processes in comparing the prices of the U.S. and imported merchandise. This requires devising new analytical methods for complicated issues related to exchange rate fluctuations, hyper-inflationary economies, nonmarket economies, the multinational corporation provision of the antidumping statute, and other factual and legal complexities. The specialist directs a team of attorneys, economists, and accountants in conducting this investigation and prepares the final determination on whether an unfair trade practice has occurred.

FACTOR 2, SUPERVISORY CONTROLS

Level 2-1 -- 25 Points

The specialist carries out selected training assignments under the direct guidance and review of the supervisor, who assigns and explains the specific tasks to be performed. The supervisor also provides detailed instruction on the application and interpretation of laws, regulations, and procedures as well as appropriate investigation, negotiation, and conciliation techniques.

The specialist frequently consults with the supervisor on any situations not covered by initial instructions.

All work is reviewed during progress or at completion for accuracy, adequacy, and conformance with instructions.

Level 2-2 -- 125 Points

The supervisor assigns a variety of compliance and investigative problems and issues of increasing complexity for developmental purposes. Assignments are accompanied by guidance indicating generally what is to be done, applicable policies and procedures, and priorities and time frames for completing the work. The supervisor provides specific instructions on methods to use if the assignment is of a type not encountered before by the specialist or presents significant difficulties.

The specialist carries out recurring assignments independently, but consults with the supervisor or higher graded specialist on new or unusual work problems or issues. For example, guidance is sought when there are difficulties in setting accurate information due to conflicting statements.

The work is reviewed both for technical adequacy and to ensure the proper application of the investigative methods employed. The supervisor reviews all findings and conclusions in detail before their presentation to representatives of the regulated entity to confirm that information has been adequately developed and legal guidelines correctly applied.

Level 2-3 -- 275 Points

The specialist receives assignments for which objectives, priorities, and deadlines have been established by agency procedures and policy or by supervisory instruction. Where unusual situations or problems are anticipated, the supervisor or higher graded specialist typically provides general technical guidance, such as possible alternative approaches or precedents that might be helpful.

The specialist independently plans and carries out assignments and resolves problems or deviations in the work in accordance with general directions, previous training, or accepted techniques and organizational practices. For example, the specialist plans investigations including the approach to take, issues to review, and questions to ask. The specialist conducts investigations by interviewing witnesses and getting documentary evidence, determining the relevance and reliability of evidence, analyzing findings, following-up on leads, and drawing conclusions. In some programs, the specialist then prepares for and conducts negotiations with parties to a complaint to obtain compliance and arrive at settlement agreements. The specialist notifies the supervisor or higher graded specialist of unusually difficult or sensitive situations encountered during assignments; solutions are developed jointly by the specialist and the supervisor.

The supervisory review focuses on the soundness of results rather than the application of work methods and techniques. Work products are reviewed to

ensure that appropriate factors have been considered, sufficient information or evidence has been gathered to support conclusions, and pertinent regulations and precedents have been applied.

Level 2-4 -- 450 Points

The supervisor sets the overall objectives and, in consultation with the specialist, determines time frames and possible shifts in staff and other resources required.

The specialist is responsible for independently planning and carrying out assignments which typically include resolution of difficult or sensitive situations. This includes deciding whether, on the basis of initial findings, to limit the investigation to the organization initially targeted, or expand it to other organizational levels or entities. In those cases where assignments require additional employees, the specialist is responsible for independently planning, organizing, and coordinating the work of team members. The specialist independently determines the course of the investigation, reaches conclusions, and then, as appropriate, conducts negotiations and arrives at settlement agreements or refers the case for other appropriate action. The specialist may consult with the supervisor to get concurrence on issues not covered by regulations or precedents, or on recommendations that a case be developed for legal action.

Work products are typically submitted to the supervisor as recommendations, or the supervisor may review, after the fact, the findings and decisions made, including any recommendation for further action. The specialist's judgment is accepted as technically sound. Completed work is reviewed for consistent interpretation of legal precedents, equitable treatment of regulated activities, impact on agency policy, and effectiveness in accomplishing program objectives. Cases developed for legal action may be reviewed for sufficiency in more detail.

FACTOR 3, GUIDELINES

Level 3-1 -- 25 Points

Assignments, generally at a trainee level, are such that specific, detailed guidelines covering all important aspects of the work are provided to the specialist (such as directly applicable examples drawn from an operating manual).

The specialist works in strict adherence to the guidelines. When guidelines are not available or are not directly applicable, the supervisor specifies materials or persons to consult in the preparation of the response as well as the form and type of response. Deviations must be authorized by the supervisor or a senior specialist.

Level 3-2 -- 125 Points

Assignments, generally of an advanced trainee level, are covered by specific legal and investigative guidelines which are available for reference if needed. For example, in conducting investigations the specialist follows procedures established by the agency and office for planning the approach, conducting factfinding, and preparing reports.

At this level, the specialist is learning the guidelines through exposure to a variety of work situations that require some judgment in the selection of the most appropriate methodology. In many work situations, guidelines are unwritten and traditional, and judgment is required in knowing when to seek assistance from the supervisor or senior specialist. For example, in conducting an investigation, the specialist uses judgment in selecting witnesses to interview, the line of questions to pursue, or the financial records to examine, but consults with the supervisor on problems encountered.

Level 3-3 -- 275 Points

Guidelines covering both the legal aspects and investigative process related to the work are available, but there are gaps in specificity due to variations in fact or circumstances in each assignment.

The specialist must use judgment to interpret and adapt the guidelines for application to specific cases and problems. For example, policies and precedents may address concepts such as exemptions from coverage, discrimination, or fiduciary responsibility which must be interpreted in relation to the specific situation encountered. In addition, the specialist must adapt work procedures to the specific set of facts or circumstances in each case. Where guidelines outline alternative methods of gathering evidence, the choice of the specific tactic depends on the specialist's assessment of the attitudes and likely behavior of subjects or witnesses or on a preliminary evaluation of data.

Level 3-4 -- 450 Points

The specialist performs assignments covered by legal guidelines which are generally applicable. However, the assignments involve complex, sensitive, or intricate issues or problems for which established investigative approaches, such as those outlined in handbooks, are of limited use.

The specialist uses initiative and resourcefulness in deviating from established methods to treat unusual issues or problems in reviews or investigations, or analyzes trends and patterns to supplement or clarify existing program guidelines or to develop new guidelines where none exist. Typically, such unusual issues or problems arise in complex investigations which involve at least two of the

complicating situations described in Factor Level 4-4, or at least one of those described in Factor Level 4-5.

FACTOR 4, COMPLEXITY

Level 4-2 -- 75 Points

The work involves assignments designed to orient new compliance specialists and support the work of more experienced specialists. Assignments typically involve problems of limited complexity because the facts are clear, undisputed, closely related to one another, and readily available from a few sources. Typical assignments involve isolated tasks or structured procedures, such as interviewing specified witnesses or complainants for basic facts; analyzing and summarizing data reported by regulated individuals or entities; or answering factual questions from complainants, respondents, or the public concerning program objectives, jurisdiction, and procedures.

Decisions involve resolving obvious discrepancies of fact by additional fact finding or reviewing additional documents. The application of law or regulations is clear cut by either a literal reading or reference to well-established precedents.

Actions taken differ according to the sources of information or the specific factual situation.

Level 4-3 -- 150 Points

The work involves a range of investigative functions on assigned cases or studies, or portions of them, from planning through fact finding to reporting results. Assignments involve conventional problems which can be resolved through analysis of facts, the selection and application of appropriate legal and regulatory guidelines, and application of a variety of standard investigative techniques and procedures. Typically, assignments involve investigations or studies with the following characteristics:

1. The review or study focuses on one or a few compliance issues related to the local policies or practices of a small, relatively uncomplicated organization (for example, a single-purpose, single-location business, a small pension plan covering 20-30 employees, or a local union with 50-100 members).
2. The review or study is based on accepted interpretations and applications of established legal and regulatory precedents.
3. There are no serious obstacles that impede the development of facts. There may be some disputed facts or discrepancies, but conclusive information is accessible when a variety of standard fact finding techniques are employed.

Decisions require recognition of legal and factual issues to determine which of several related policies, regulatory provisions, and legal precedents apply. The specialist must determine which and how many records to examine or persons to interview and decide when sufficient information has been gathered to substantiate findings.

Actions taken by the specialist involve establishing facts and linking them to elements of proof to demonstrate compliance or noncompliance with particular legal or regulatory provisions.

Level 4-4 -- 225 Points

The work involves the full range of duties associated with a compliance program, including investigations or reviews, negotiations, and public information or education activities. Assignments typically involve at least one of the complicating situations (or comparable situations) described below:

1. The review or study focuses on compliance issues which require analysis of a complex set of policies, practices, and operations. Typically, such reviews focus on the activities of organizations having several branches or subsidiaries, or those having several functions performed by different components.

Examples include a review of a chain of drugstores in a locality to determine compliance with the Fair Labor Standards Act; a review of the trust department operations of a moderate-sized bank serving as a fiduciary to several pension plans for compliance with the Employee Retirement Income Security Act; or a review of the financial management and operations of a craft union's regional organization and affiliated locals totaling a few hundred members to ensure compliance with the Labor Management Reporting and Disclosure Act.

2. More than one reasonable interpretation exists of legal or regulatory guidance, and therefore of the appropriate conclusions to be drawn from facts.

Examples include determining whether the manager of a retail establishment is exempted from coverage under Fair Labor Standards Act provisions when the manager's discretion is limited by somewhat unusual rules of operation set up by the corporation which owns the establishment; or determining whether a pension plan's investments are sufficiently diversified to minimize the risk of large losses as required by the Employee Retirement Income Security Act.

3. Serious obstacles hinder progress in establishing facts, interpreting evidence, and achieving compliance. This level of complexity is achieved when the specialist must overcome the combined effects of several such obstacles. For example, establishing facts may be complicated because important records have

been hidden, destroyed, or falsified; witnesses are uncooperative or have been intimidated; various facts are in conflict; or pertinent facts must be identified from among especially voluminous data. Interpretation of evidence may be difficult because individual facts are inconclusive and must be linked with other information to establish patterns of behavior or practice. Other obstacles may include public interest or sensitivity of issues which restrict normal investigative options; a requirement for extremely rapid development and the streamlining of normal procedures; or unusual resistance encountered in investigations.

An assignment typifying these obstacles is one in which witnesses have been intimidated by an official who is unwilling to furnish information, and a large amount of money is missing as are pertinent records related to important accounts. The specialist develops a pattern of facts and circumstantial evidence to examine possible motivations and the opportunities individual officials had to misuse funds. This is combined with evidence of personal expenditures by one official well above his known earnings to establish his embezzlement of funds.

Decisions on what needs to be done must consider the variety of activities and facts reviewed, some lack of clearly applicable legal and regulatory guidelines, or the obstacles encountered, such as incomplete or conflicting information. These conditions cast some doubt on which of several possible approaches to take to resolve compliance issues.

Actions taken by the specialist require judgments on the accuracy and credibility of a large volume of data from statements and records; the significance of and interrelationships among particular facts or records in a vast body of information, opinions, or observations; and the most appropriate legal interpretations and precedents to apply to the facts. The work also requires adapting methods to overcome significant complications that arise or that have been deliberately placed in the path of the investigation or review. For example, the specialist must reconstruct missing records from statements by witnesses, third parties, or other records that contain the needed information, but perhaps in another form or format.

Level 4-5 -- 325 Points

The work involves especially complex investigations or reviews, or the monitoring and guidance of compliance program activities for a segment of the nation (for example, several states). Assignments are characterized by the breadth of planning and coordination or the depth of analysis required to resolve highly complex problems. Assignments involve complicating situations such as those described below:

1. Investigations involve thorough examination of the policies, practices, and operations of sizable organizations which have many subsidiaries engaged in different functions or that differ substantially in their operational characteristics, and operate throughout a large, populous state or several states. The studies are further complicated by such factors as the instability of the organizations and operations (as evidenced by mergers, bankruptcies, or takeovers); differences between applicable laws and regulations of various states; conflicting or ambiguous legal precedents or administrative decisions; new situations for which legal precedents are only indirectly applicable; or several serious obstacles to progress such as those described in Factor Level 4-4, or comparable situations.
2. The investigation or study involves significant legal or regulatory issues that have not yet been tested due either to changes in the law or changes in the practices of regulated entities. The specialist determines the appropriate approaches to develop information and findings considering the potential for establishing an important precedent (for example, conducts the first of a particular type of case related to an emerging industry practice or being pursued under a new provision of law.)
3. Assignments involve the survey and analysis of program activity throughout a significant geographic or program area (for example, monitoring and intervening, where necessary, in the enforcement program for the Fair Labor Standards Act throughout a multi-state region to ensure correct and consistent application of program guidelines and policy, accomplishment of program objectives, and balance in workload and resources among the region's field offices). The specialist identifies operational problems; recommends corrective action to the appropriate level of management; and provides technical assistance for the resolution of problems arising from novel issues related to the administration of the compliance program.

Decisions on what needs to be done are complicated by the large size of and intricate interrelationships within and among the organizations, activities, and operations under review. Decisions may also be complicated by the need to resolve significant legal or regulatory issues. The assignments involve unique problems and combinations of complicating factors which limit the applicability of the guidelines and procedures normally used for performing the work and create major areas of uncertainty about which approach will produce the best results.

Actions taken by the specialist involve enforcement cases that serve as models for developing future cases of the same type, or that change fundamental policies and practices of major institutions such as large multi-state corporations. The specialist extends existing investigative techniques into new patterns or approaches to address newly covered activities, emerging industry practices, or innovative

strategies for avoiding compliance. The specialist also makes recommendations or develops interpretations that change policies and practices of the compliance program or that reorder program priorities to solve problems in an assigned geographic or compliance program area.

FACTOR 5, SCOPE AND EFFECT

Level 5-1 -- 25 Points

The purpose of the work is to provide training in the practical application of the basic concepts, methods, procedures, and guidelines of the compliance program. The work involves the performance of well-defined tasks, such as reading commonly used procedural and regulatory guidelines, or gathering and organizing clearly defined information from one or a few readily available source documents or files for use by higher level compliance specialists.

The work is primarily intended to orient the trainee to the functions and activities of the agency's enforcement program.

Level 5-2 -- 75 Points

The work involves the application of specific, well-established regulations and procedures of the compliance program in the performance of clearly defined assignments of limited depth. This includes, for example, developing information and evidence related to specific violations through such means as interviews, observation, and examination of readily available business records.

The effect of the work is primarily to assist higher level compliance specialists by relieving them of more routine work assignments, or to perform clearly defined segments of investigations or other work performed by higher level specialists.

Level 5-3 -- 150 Points

The work involves the treatment of a variety of conventional problems and issues for which there are known and accepted solutions contained in a wide range of established compliance regulations, practices, and procedures. This includes such activities as: interviewing officials of regulated entities, complainants, and witnesses; analyzing pertinent business records; reviewing laws and regulations enforced to identify specific provisions that apply to the circumstances of the case; presenting findings to the respondent to obtain compliance; and, in some programs, negotiating settlement agreements.

The work results in the resolution of particular problems or issues, or results in change in one or a few separate practices of the business enterprise reviewed (for example, the resolution of individual complaint cases that have an impact upon

employment or pay practices affecting one or a few employees, or the debarment of an official of a local union). The impact of the compliance specialist's independent decisions is usually on an individual respondent or a small number of individuals.

Level 5-4 -- 225 Points

The work involves: (1) investigating or analyzing a variety of unusual conditions, problems, or questions in on-site compliance investigations or reviews; or, (2) at a staff level, providing authoritative interpretations of, and resolving conflicts in, guidance and regulations issued by the compliance program, or (3) planning and conducting program evaluations of subordinate activities throughout a multi-state region. Conclusive findings or evidence are difficult to develop because of the unusual conditions, problems or questions, such as especially large and complex sets of interrelated data, the concealment of facts and evidence by highly sophisticated schemes, or issues with significant regional impact.

The on-site compliance determinations and settlement agreements developed by the specialist result in significant changes in the financial management, employment, pay, or other practices throughout a sizable organization. The work may also affect the eligibility of officials to exercise authority throughout a sizable organization. These organizations typically include: those having many functional components at one location, such as an industrial plant or commercial bank; or those with more than one facility or project site in a locality, such as a chain of drugstores, a construction firm with projects in a metropolitan area, county, or region of a state, or a union regional organization with several subsidiary locals.

The work in a staff capacity aids the policy-making activity of the compliance program including, for example, the development of regulatory, procedural, and similar guidance for use by subordinate levels and components of the compliance program in headquarters or field locations.

FACTOR 6, PERSONAL CONTACTS AND FACTOR 7, PURPOSE OF CONTACTS

Select the highest level of Purpose of Contacts which is a regular and recurring requirement of the position. Then select the highest level of Personal Contacts which is regularly associated with the level chosen under Purpose of Contacts. Credit the appropriate point value for this match using the chart provided.

Purpose

- a. To obtain or exchange information.
- b. To motivate individuals who are basically cooperative to provide facts or records, make minor changes in operations to comply with requirements, or to plan and coordinate work efforts.
- c. To persuade individuals or groups who are fearful, skeptical, uncooperative, threatening, or potentially dangerous to provide information, accept findings, or take corrective action required by law.
- d. To negotiate and resolve major, highly controversial issues or to justify and defend decisions (as opposed to recommendations) on such issues. Negotiations and decisions have a significant impact on the respondent, including changes in financial practices, operating methods, trade practices, personnel and pay policies, tenure of key officials, or collective bargaining agreements. Positions taken by the specialist on behalf of the agency are strongly contested, typically by a team of top management officials, attorneys, and accountants, or by representatives of major interest groups.

Persons Contacted

1. Employees within the immediate office and in related support offices.
2. Employees in the same agency but outside the immediate office. These employees may work in different functions or program areas, or in the same function or program area but at another organizational level or in another geographic location.

-or-

Complainants, witnesses, or respondents or their representatives. In either case, contacts are routine, roles are understood by the specialist, and are clear or easily explained to the contact.

3. Individuals or groups from outside the employing agency where the purpose of each contact is different, such as attorneys, accountants, the news media, or representatives of public action groups. In each case, the contacts are not established on a routine basis and the role and authority of each party is unclear. Typically, the specialist must carefully establish and structure contacts to get or convey needed information and evidence.

P U R P O S E

C O N T A C T S		a	b	c	d
	1	30	60	130*	230*
	2	45	75	145	245
	3	80	110	180	280

*These combinations are probably unrealistic.

FACTOR 8, PHYSICAL DEMANDS*Level 8-1 -- 5 Points*

The work is primarily sedentary, although there is some walking, travel, and carrying of lightweight items such as briefcases, notebooks, and work papers.

Level 8-2 -- 20 Points

Assignments regularly require visits to construction, industrial, agricultural or other outdoor sites, and movement over rough and uneven surfaces to reach interviewees and observe operations.

FACTOR 9, WORK ENVIRONMENT*Level 9-1 -- 5 Points*

The work is typically performed in an adequately lighted and climate controlled office.

Level 9-2 -- 20 Points

Assignments regularly involve exposure to moderate risks or discomforts such as high levels of noise and vibration, dust, grease, exposed moving parts of machinery, contagious diseases, engine exhaust, or irritant fumes. Protective clothing and gear and observance of safety precautions are required.